



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

WATERVILLE VALLEY TEACHERS'
ASSOCIATION, NEA-NEW HAMPSHIRE

Complainant

v.

WATERVILLE VALLEY SCHOOL
DISTRICT

Respondent

CASE NO. T-0409

DECISION NO. 93-130

APPEARANCES

Representing Waterville Valley Teachers Association:

Janet Paddleford, UniServ Director

Represent Waterville Valley School District:

Bradley F. Kidder, Esq.

Also appearing:

G. Paul Dulac, Waterville Valley School District
Mark Halloran, Waterville Valley
Denise Burke, Waterville Valley
Chuck Finnegan, Waterville Valley

BACKGROUND

The Waterville Valley Teachers' Association, NEA-New Hampshire (Association) filed a Petition for Certification on May 27, 1993 for the following employees of the Waterville Valley School District (District): Teachers (10), nurse (1), guidance counselor (1) aides (1), custodians (1) and secretary/media aide (1). The District filed objections thereto on June 11, 1993. After an intervening continuance sought by one of the parties, this matter was heard by the PELRB on September 16, 1993.

FINDINGS OF FACT

1. The Waterville Valley School District is a "public employer" as contemplated by RSA 273-A:1 X.
2. The custodian is not a professional position within the meaning of RSA 273-A:1 VII and does not exhibit a community of interest with the teaching positions under RSA 273-A:8.
3. The nurse position works on an "as needed" basis, approximately 8 1/2 days per year, attending to medical records and reporting requirements. As essentially an irregular, on-call or temporary employee, the nurse, under these circumstances, does not qualify as a public employee under RSA 273-A:1 IX (d).
4. The secretary/media aide performs these functions in a 5/8 to 3/8 ratio, respectively. Although there is no history of collective negotiations or participation in labor relations matters by the incumbent, the secretary/media specialist is the only secretarial position in the district and is responsible for all of the secretarial work generated by the school principal. As the only secretary, this employee is not eligible to be in the bargaining unit under RSA 273-A:1 IX (c) and Appeal of City of Laconia, 135 N.H. 421 (1992).
5. The remaining positions in the pending petition involve teaching or teaching-related positions of a professional nature under RSA 273-A:1 VIII with a frequency ranging from daily (3) to one day per week (4). All remaining positions in the petition involve personnel with an expectation of regular, (be it daily, weekly or something in between) and continued employment through the school year.
6. The District and its employees petitioned for in the pending petition have a history of a "meet and consult" relationship. Under that relationship, benefits are conferred on the remaining positions in the bargaining unit according to work schedule, i.e., teachers working a full week receive 100% benefits while teachers working less than a full week receive pro-rated benefits according to their work schedule during the work week. For example, a teacher working two days a week would

receive 40% of the paid benefits package received by a full-time teacher.

7. Teaching personnel working less than full time for the District may work elsewhere in the SAU in order to qualify for benefits based upon their total work week within the SAU, e.g., qualifications for state retirement. There are ten districts within SAU No. 48 of which this district is one.

DECISION AND ORDER

The positions of custodian, nurse, and secretary/media aide are excluded according to Findings Nos. 2, 3 and 4, respectively. A bargaining unit is hereby established for the remaining petitioned for employees, both full and part-time, namely full-time teachers, primary teachers (daily), foreign language teacher (daily), algebra teacher (daily), physical education teacher (2 days), speech therapist/teacher (2 days), music teacher (1 day), art teacher (1), reading specialist (1 day) and guidance (1 day). This board is not persuaded that the amount of time devoted to teaching duties, i.e., in those instances where a professional employee works only one or two days a week, is a disqualifying factor. In each instance, the employment relationship is a consistent one which continues throughout the school year. In similar circumstances, we have certified bargaining agents in units where teachers have taught as little as a half day per week in a given district of a SAU, See, for example, Marlow School District, Decision Nos. 93-36 and 93-68. Similar results have occurred in the non-professional sector for regular, but not full-time, public employees. In addition to these considerations, we find that the job positions in the bargaining unit have met the requirements pertaining to community of interest, specifically those found at RSA 273-A:8 I (a), (c) and (d). The establishment of the foregoing bargaining unit is

So Ordered.

Signed this 30th day of September, 1993.


 EDWARD J. HASELTINE
 Chairman

By majority vote. Members Richard Roulx and E. Vincent Hall voting in the majority and Chairman Edward J. Haseltine voting in the minority.